IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11386 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MENSINHBHAI PALABHAI VAANVI

Versus

ANANDPARA KHETI SAMUDAYIK SAHAKARI MANDALI LTD

Appearance:

MR JAYANT PATEL for Petitioner

MR BG JANI for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 21/06/2001

ORAL JUDGEMENT

The petitioner filed Arbitration Suit No.541/98 before the Board of Nominees at Rajkot praying for a declaration and injunction. During the pendency of the suit, the petitioner-plaintiff also filed an application for interim injunction on which the trial court granted

ad-interim injunction dated 23-11-1998. After biparte hearing, the trial court confirmed the ad-interim injunction by its judgment and order dated 6-3-1999. The respondent herein i.e. the defendant-Society preferred an appeal before the Gujarat State Cooperative Tribunal. By judgment and order dated 9-10-2000, the Tribunal allowed the appeal and set aside the interim injunction granted by the trial court and also rejected the said application. Aggrieved by the aforesaid judgment and order of the Tribunal, the original plaintiff has filed this petition. While issuing Rule on 8-11-2000, this Court granted ad-interim relief in terms of para- 8(b) staying operation and implementation of the judgment and order dated 9-10-2000 passed by the Tribunal with the result that the ad-interim injunction granted by the Board of Nominees on 23-11-1999 and confirmed on 6-3-1999 continues to operate in favour of the petitioner-plaintiff and against the respondent-defendant-society.

2. Affidavit-in-reply is filed on behalf of the respondent-defendant-Society on 10-12-2000 opposing the petition and contending that the jurisdiction to decide the controversy was with the Collector who had allotted the land and the Board of Nominees had, therefore, no jurisdiction to decide the dispute between the parties.

3. Having heard the learned counsel for the parties for some time, this court is of the view that since the ad-interim injunction is operating in favour of the plaintiff since the date of institution of the suit i.e. 15-11-1998, in the facts and circumstances of the case, it would be just and proper to dispose of this petition with a direction to the Board of Nominees, Rajkot to hear and decide Arbitration Suit No.541/98 as expeditiously as possible and in any case by 31st October, 2001 and it is further directed that the ad-interim injunction granted by the Board of Nominees, Rajkot on 23-11-1998 and confirmed on 6-3-1999 shall continue till 30th November, 2001 or till the date of disposal of the suit, whichever is earlier. In view of the above direction, the judgment and order of the Tribunal is set aside with a clarification that the Court does not express any opinion on the merits of the rival contentions of the parties and the Board of Nominees shall decide the suit in accordance with law without being influenced either by the judgment of the Tribunal in appeal against the interlocutory order or without being influenced by the fact that this Court has continued the interim relief granted by the Board of Nominees in the aforesaid terms. Rule is made absolute to the aforesaid extent with no order as to costs.

Direct service is permitted.

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